

Previous Reference  
App. F. IX-A  
45/171-27(1-7)  
45/171-27(1-2)  
Previous References  
45/63-37-1  
4 Lys 22 9/19/10(1-4)

1938.  
(Lys)

File No. 4738  
Serial No. /

Letter References

2. R 272. 42 - 1804

PRESERVED

(90)

## GENERAL AND REVENUE SECRETARIAT.

Serial Nos. one only.

Part B for March, 1938.

### SUBJECT.

Promulgation into Law of the Mysore  
Limitation (Amendment) Bill

8(1) To The Compiler, Encl.  
No. p 300 of 14.7.38

WD 0205-GPB-22,500-13-8-1.

Ordered that the Act further to amend the Mysore  
Limitation Act, 1911, be published as Act XL of 1938  
in the Mysore Gazette

Suzanne Vazeer Khan  
3/4/39

Serial  
No.

At page 340 of XL Mys High Court Reports  
The J has accepted the desirability of amending  
certain portions of the Mysor Limitation bylaws  
Prior put up reference

C  
1/11/35

1) The Hon'ble the Judges have  
opined that it would be of great  
advantage if the Limitation Reg<sup>n</sup>  
were amended so that the  
provisions of sections 4 to 10, 12 to 18 & 22  
of that Reg<sup>n</sup> were made applicable  
to all periods of limitation fixed  
by any other Reg<sup>n</sup> except those  
specially excluded by the words  
of that other Reg<sup>n</sup>. They further say  
that would be desirable that Sec 29  
of the Reg<sup>n</sup> should be amended  
on the lines of the change made  
in the Or Indian Act by Act X  
of 1922.

✓  
Mysor  
Reg<sup>n</sup> 31✓  
Mysor  
Reg<sup>n</sup> 31

A comparative statement of  
the sections in our Reg<sup>n</sup> and in the  
Or Indian Act is at Page Q.

Prior to 1922, Sec 29 was the  
same in Mysore as well as in  
Orissa and in that year the

you to amend the Limitation  
Regulation.

File No.

of 193

General and Revenue  
Secretariat

amendment was introduced in order to clarify the provision at a game room for conflicting decisions in the Madras High Courts. (vide statement of objects & reasons accompanying the Bill which leads to the Act of 1922. *HC St George Gazette* 193 of Part III of 26. 4. 1921 (part 4).)

The amending Act of 1922 includes also another amendment of sec 5. The words 'by any enactment or rule' in that section have been changed into 'by or under any enactment' the word 'rule' being taken away.

This may, perhaps, be also adopted along with the above

Send for orders with refer

Don  
6/11

D/ In Motiram Lala vs. The Deputy Commissioner of Mysore District (40, Mysore High Court Reports <sup>Sept 1921</sup> 330 and 341), the Chief Justice has suggested that it is desirable that section 29 of the Limitation Regulation should be amended on the lines of the

Serial  
No.

amendment in the Indian Act. He says :

" I think it would be a great advantage if the Limitation Regulation in force in this State were amended so that the provisions of sections 4 to 10, 12 to 18 and 22 of that Regulation were made applicable to all periods of limitation fixed by any other Regulation except when specifically excluded by the words of that Regulation".

In the Indian Act, prior to 1922 section 29 was just similar to what it is in ours now. It provided that nothing in the Limitation Act shall affect or alter any period of limitation specially prescribed for any suit, appeal, or application by any special or local law. For example, the general provisions of the Limitation Act in regard to exceptions and qualifications in computing the period of limitation would not be applicable to the periods of limitation fixed under the Registration Regulation and such other special laws. The interpretation of this provision was the subject of conflicting decisions by High Courts. The Calcutta and the Madras High Courts held that the general provisions of the Act cannot be applied in computing the period of limitation specially prescribed by any special or local law whereas the Allahabad High Court took a contrary view on the ground that a special or local law was not in itself a complete code of limitation. In 1922 this conflict was cleared by amending the section 29

*these provisions*

so as to make applicable the Limitation Act to the  
period of limitation prescribed by any special or  
local law unless they are specifically excluded.

In the case cited above, our High Court followed the  
Madras decisions and held that the Limitation  
regulation was not applicable to the period of  
limitation provided under the Muzrai Regulation.

4) As suggested in the judgment, it is desirable  
to amend section 29 of our Regulation also. If  
approved, action will be taken to draft a bill.

5) *& the marginally noted amending Act*  
Act I of 1929 made certain changes in the *Indian*  
Limitation Act in section 10, articles 5, 48 A and  
B, 132, 133, 134, 150A, ~~150B and 150C~~. If approved,  
we may consult the High Court whether we may adopt  
those changes also. While amending section 29  
opportunity may be taken to bring the entire *Limitation*  
Regulation into line with the Indian Act ~~xxx~~ as it  
is at present.

(1) I of 29

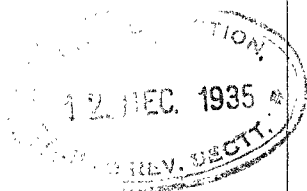
(2) ~~xxx~~ of 25

(3) I of 27

(4) ~~xxi~~ of 29(5) ~~xii~~ of 23*Chakravarty**(independent)**18 Number**Ce*  
*27/11/85**Mr*  
*27/11**(6) The High Court may be  
consulted**102**10.12.35**Mr*  
*27/11**Ce 10/12/85*

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No.

7) Draft - High Court and

Dm  
11/12  
JSC8) 2  
6/11/2785

NO P 3914 &amp; 17.12.35

The Registrar High Court

Invites refer to the  
judgment at Page 240 of Vol XL  
of High Court Reports and  
requests that the opinion of the  
High in the matter of bringing  
in certain other changes made  
in Dr India

Sd A

Letter NO A, Ds 2 of 4/7  
from the Registrar et for-  
warding the minutes of the  
Chief Justice on the subject  
of stating that the amendments  
of S. 29 has the concurrence  
of all the judges.

71.2

9) Subd with a statement  
of amendments made in  
Bd India. At this the

amendments made by Act  
I of 1927, 30 of 1925 and  
9 of 1927 have already  
been adopted here.

Of the other amendments  
the High Court have recommended  
the adoption of those  
made in B. India  
by Act X of 1922, I of  
1924 and XI of 1924.

H. V.  
21.6.

Re the amendment  
made in B. India

- Act. 106 by Act I of 1927

to bring justice with  
considering that the amendment  
is not necessarily sufficient  
that the ground of fraud  
should also be included  
in the statute by adding  
"or fraud" after  
"irregularity".

Act. 106 in the Mysore  
Reg. differs from that  
in the B. India Act  
at the suggestion of

H. Y



of 3 years.

It is for decision whether  
the suggestion of the C.J.  
in respect of the amend-  
ment of Art. 166 is to

be ad-opted. ~~but~~ This is included in the book

A draft Bill on

the lines suggested by

the High Court ~~is~~ ~~is~~

~~the amendment~~

~~it~~ is put up together

with a statement

of objects & reasons.

In amending S. 29

the Rev. Indian wording

has been adopted. In

the H. C. judgment in

40 2-42 H. C. R. p. 341

it is suggested that the

provisions of SS 4 to 10,

12 to 18 & 22 of the Provisional

Regn. should be made

applicable to periods

fixed by other Regns. In

the wording of the clause

Not  
advised  
pays for  
134541

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No.

as adopted from the Br. India Act, it is duly the provision of S. 4, sections 15 to 18 & ~~22~~ section 22 that are made applicable.

In the Bill the amendments made in Br India by Acts 18 of 1919 & 26 of 1920 are also included.

There are not adverted to in the High Courts.

The amendment to Act 18 (made by Act 18 of 1919) appears as desirable on the amendments to Act 176 made by Act 26 of 1920 was on the recommendation of the High Court in July 1935 was placed before the R.A. As it was not in favour of the change it was ordered that the Bill might be dropped then & there as a ~~general~~ <sup>general</sup> matter.

J. L. W.

NOTE—Contn Sheet.

That is now included  
in the Bill

Sec 10. for orders.

SC  
31/7

10) I have revised the Bill as  
also the statement of objects & reasons.  
Phase put up a statement of general  
principles for the R.A. we may put this as  
revised through Ce

20/8/36

11) Sec 10. with a statement of  
general principles  
SC  
16/8.

For  
reference  
20/8/36

12) The High Court have been consulted in regard  
to the amendments to the Limitation Regulation.  
They are in favour of the adoption of most of the  
amendments. All the amendments recommended are  
included in the draft Bill.

13) Art. 166, which provides a period of 30 days  
for setting aside execution sales, is different  
in wording from that in the British Indian Act.  
In British India the period of limitation for  
setting aside a sale on the ground of fraud also

Serial  
No.

also is 30 days in view of the general terms in which the article is worded. In Mysore, the decisions of the High Court have not been uniform. In some, it has been <sup>thought</sup> ~~held~~ that since the ground of fraud is not expressly mentioned in Art. 166, it does not come under it but comes under the general Article 182 which provides a period of 3 years. In some other decisions, Art. 166 has been interpreted as including also a case of fraud in publishing or conducting a sale. The High Court have suggested that the words " or fraud " may be inserted in the Article after the word " irregularity ". The amendment would remove all doubts and would be in consonance with the provision of Order ~~XXI~~ <sup>XXI</sup>, Rule ~~13~~ <sup>90</sup>, which places the ground of fraud on the same footing as the ground of material irregularity. This amendment is therefore included in the draft Bill.

14 The amendment to Articles 176 and 177 reducing the period of limitation to bring legal representatives on record from 6 months to 90 days was placed before the Representative Assembly in June 1935 on the recommendation of the High Court. It was not approved by the Assembly and the Dewan announced that it would be dropped for the present. It has been <sup>\*</sup>ordered that it may be brought up a year hence. Opportunity has been taken to include this amendment also in the draft Bill.

15 A draft Bill, with a statement of objects and reasons and a statement of general principles, <sup>are</sup> ~~is~~

Flag W.

submitted for consideration. If approved, the statement of general principles will be placed before the Representative Assembly at its Dasara Session and the Bill introduced in the Legislative Council in December 1936

(8th Member)

Ce

29/8/36

16) I wonder if this cannot wait for the new Assembly + CL next year.

for

2/9 MS  
2/9

7) There is no special message & it may be taken up at the next June Session.

Chief Secretary)

Ce

28/1/36

(8th Member)

MS  
3/9

18) As there are a no of more urgent measures for this Session & also the L.C. will be dissolved in March next, this may be postponed to the June Session 37

for

4/9 MS  
5/9

Ce 579/38

Sms B

CHIEF SECRETARY  
3 SEP. 1936

Serial  
No.

The 1st member has ordered  
in the file on basis of the  
programme that this bill  
may be worked up.  
Draft bill & set of  
objects & reasons & set of  
gl. principles are sub.  
for consideration.

See

2/8/37 The draft bill, the state ment of  
General principles and the state ment of  
objects & reasons for are for approval  
on orders. It is ordered that the general  
principles & this bill may be placed before  
The R.A. & the bill itself before the next L.C.

Gen Secy

18- member

21

yes

and 18/9  
10/9 13-8MSR  
10-9MSR  
18/9/37

and 11/9

MSR  
13-9

Resulted for orders. This is a  
council matter.

See

18/9/37

23 This may be disposed of by circulation  
chief Secy

Dewan

24

MSR  
15-9-37MSR  
13-9  
14-9MSR  
14-9MSR  
16-9

GENERAL SECRETARY,  
13 AUG. 1937  
1937

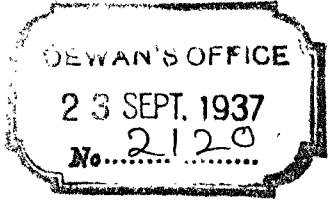
1116  
149

GOVT. OF MYSORE  
13. SEP. 1937

of 1937-38

GENERAL AND REVENUE SECRETARIAT.

Council Matter.



Subject

Bill to amend the Mysore Limitation Regulation.

25 ) Circulated to the Members of Council.

By Order,

*Misra*

16th September 1937 .

Chief Secretary to Government.

First Member of Council.

(Seen)

2207  
17.9.37 Second Member of Council.

neu  
19/9/37

Under Secy (Protn.)

10/20.9

26 )  
D. Z. M. S. who  
20/9. please put up a by-pass note  
as revised by

24/9. D. Z. M. S. who  
182 member

S. N. put up.

10/21.9

DEWAN)

MS  
22/9

**Subject.—**

**BILL TO AMEND THE MYSORE LIMITATION REGULATION.**

28) In the Judgment of the High Court in Motiram Lala VS Deputy Commissioner and Muzrai Officer, Mysore, (40 Mysore High Court Reports 330), it was suggested that Section 29 of the Limitation Regulation might be amended as in British India so as to make most of the exceptions and qualifications to Section 3 of the Limitation Regulation apply, not only to the periods of limitation prescribed by that Regulation, but also to those prescribed by other Regulations. While amending Section 29 opportunity is taken to bring the entire Limitation Regulation into line with the British Indian Act.

29) The High Court were consulted in regard to the several amendments and the Judges are generally in favour. A statement of general principles of the bill has also been prepared.

30) It is proposed to place the statement of general principles of the bill before the Representative Assembly at its ensuing Session and introduce the Bill in the Legislative Council in due course.

The proposal, which has been agreed to by the Dewan and the Second Member of Council may be graciously approved.

*Ip Rajagopal*

MEMBER OF COUNCIL.

Bangalore,  
22nd September 1937.

Submitted to His Highness.

---

32 I submit herewith a Final Note by the First  
Member of Council re: Bill to amend the Mysore  
Limitation Regulation,

---

for His Highness' gracious approval.

Mirza N. Ismail

Dewan.

23<sup>rd</sup> Sept 1921

Record of Cases submitted for the Orders of  
His Highness the Maharaja.



Subject.

Bill to amend the Mysore Limitation Regulation.

151

33

Order.

*KRU*

25.9.37

*MS*  
27.9.37

SUBJECT:— Bill to amend the Mysore  
Limitation Regulation.

(\*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

34

Circulated to Members of Council for perusal of His Highness' orders ~~before~~ after issue of orders. (Vide Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

*Misra*

Chief Secretary to Government.

Through the Secretary to Government,

..... General Department.

29/9/37

FIRST MEMBER OF COUNCIL.

35

*for*

29/9

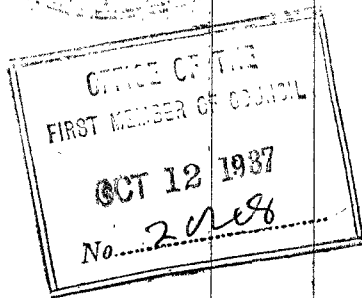
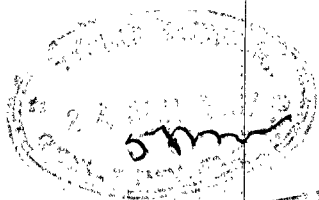
SECOND MEMBER OF COUNCIL.

29/9/37

2561  
29.9.37

Serial  
No.

3708



37)

20 typing section for making  
4 copies of the St. of St.  
principles etc.

SC

27/9

38)

20 R.A. office with copies  
of the St. of St. principles

SC

28/9

39) 3 copies taken

BVN

28/9

View  
pages  
42-44  
submitted

Submitted with the statement of principles

(for members)

by  
11/10

View  
memorandum  
pages 5/452

41) The general principles on the bill  
were adopted by the R.A.  
Proof of the Bill was got  
and verified.

Secd. for order if it may be  
published under rule 8 of L.C. Rules

SC  
4/12

42) If approved the bill will be published  
under rule 8 of the Rules of business

(for members  
&  
Deewan)

yes

43) JPR

by  
4/12

6/12

44) The

7-12-37 by 7/12

by 7/12

20 L.C. office with two  
copies of the proof of  
the Bill for publication

OFFICE OF THE SECRETARY  
8 DEC. 1937  
REPRESENTATIVE ASSEMBLY  
AND  
LEGISLATIVE COUNCIL.

59  
8/12  
46) Two copies of the Bill taken and the  
file gets to the Prot. B. (.)

PR  
8/12/37 47) Submitted with a note  
(to member)

by  
18.1

48) In any, be sent to L.C.  
office for noting the names  
of members of the L.C.  
to which the Bill was  
referred at the last meeting

59  
2/3. L.C. office

49) The names are noted below:—

1. Mr. N. Lakshminarasappa.
2. " M. Venkatesa Iyengar,
3. Divan Bahadur K. Srinivasengar,
4. Mr. Belur Srinivasengar,
5. " B. S. Puttaswamy.
6. Rajachari Vignarada Rao Sahib  
C. Hayavadana Rao.
7. Mr. F. Subbarama Chetty, &
8. The First Member of Council (Raja-  
mantnapuram S. P. Raja-  
Srinathachari).

for  
2.3.38.

Pro. by

Serial  
No.

53) This Secret Committee  
is the same for the  
Bills & the Disposal of  
property Bill & the Disposal  
of property Supplimentary  
Bill.

54) Subv. for order of 2<sup>nd</sup>, 5<sup>th</sup>  
to 12<sup>th</sup> may may be fixed  
for the meeting of the  
S.C. for consideration  
of these Bills.

Subv. with a draft  
notes.

55) The member was pleased to note  
the 4<sup>th</sup>, 5<sup>th</sup> & 6<sup>th</sup> May 1938 made  
fixed for these bills. It appeared  
these dates were meetings were before  
on these dates

(18 members)  
Treasurer & Proprietor  
27/4

53) first - this next  
27/4

54) may the draft issue  
28/4

55) issue  
28/4

Issued No. P 6017-23  
of 28.4.38

3) Send. with the draft report  
as signed by the members  
present.

4) Send. for orders if copies  
may be sent to L.C. office  
for publication.

5) submitted for perusal.  
9/5 / for member)

10/5  
9/5

5/5 / for  
9/5

10/5  
10/5

6) 20 L.C. office with typed copies  
of the report.

7) Three copies taken and the file put to Prot. 13

12.5.38

8) The B.C. report has been  
published and will have to  
be presented at the ensuing  
meeting of the L.C.

The following on 12th  
May, if approved, be

8289  
9/5

Typing section  
for 3 copies of  
the report.

OFFICE OF THE SECRETARY  
12 MAY 1938

REPRESENTATIVE ASSEMBLY  
AND  
LEGISLATIVE COUNCIL

Serial  
No.

included in the agenda:-

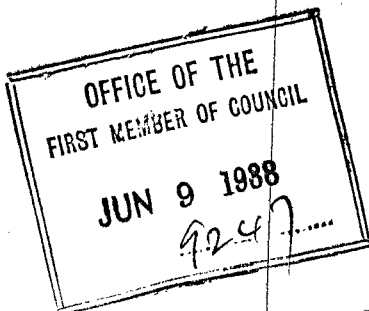
(a) Motion that the L. C.  
Report & the Bill be  
taken into considera-  
tion.

(b) Motion that the Bill  
be passed.

The date from which the  
Act is to come into force  
is for members. I have  
more the time may  
perhaps be given for  
the public to know the  
new provisions. The  
Act may come into  
force from 1st Oct 38  
This may perhaps  
be mentioned while  
moving that the Bill  
be passed.

Send for orders  
(for members)

This may be done  
by 8.6



NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

20 L. C. office for  
S. K. & return  
11/6  
C. 9/6  
10/6  
noted and pr.

Amritsar Bill.

File No

of 193 .

General and Revenue  
Secretariat

The Bill was passed by  
the L.C.

66) Subd. with a D.S.M.  
for promulgating the Bill  
into law

25/6/38.

Typed copy - please

100/286

67) Typed copy - Subd.

25/6.

(for meekle)

100/17

20  
1/7/38

68) 100/27

100/47

69) D.S.M.

100/57

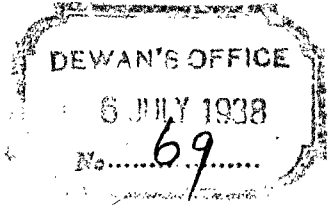
D.S.M. Subd.

5/7

Dewan)

100/57

Amritsar Bill  
6/5/38



**Subject.—**

Promulgation into law of the Mysore Limitation  
(Amendment) Bill.

70) On the 25th September 1937 His Highness was graciously  
pleased to accord sanction to the introduction of the Limitation  
(Amendment) Bill.

71) The general principles of this bill were approved by the  
Representative Assembly at its Session held in October 1937. There-  
after the bill was introduced in the Legislative Council in January  
1938. The Select Committee to which the bill was referred did not  
consider any change in the bill was called for. The bill was  
finally passed at the recent Budget Session of the Legislative  
Council.

72) I solicit the gracious sanction of His Highness to pro-  
mulgate the Bill into law.

*Majagopal*

MEMBER OF COUNCIL.

Bangalore,  
4th July 1938.

*Submitted to His Highness.*

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*I submit herewith a Final Note by the First  
Member of Council on the subject of Promulgation into law  
of the Mysore Limitation (Amendment) Bills.*

*for His Highness' gracious approval.*

*Mirza Kh. Ismail*  
Dewan.

Bangalore,

6th July 1938.

Record of Cases submitted for the Orders of  
His Highness the Maharaja.



Subject.

Promulgation into law of the Mysore  
Limitation (Amendment) Bill.

Chief Secy  
Mys  
8-7-38

lm  
8/7

10

Order.

74)

~~KRU~~

7/7/38

SUBJECT:—

*Promulgation into law of the Mysore  
Limitation (Amendment) Bill.*

(\*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before / after issue of orders. (Vide Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

*LT Nannavara*  
Chief Secretary to Government.

Through the Secretary to Government,

.....Department.

FIRST MEMBER OF COUNCIL.

SECOND MEMBER OF COUNCIL. *mu*

*11/7/38*

*Under Secy (Prin)*

*LTm*  
*12/7*

*hoy*  
*12/7*

Amendment Act

General and Revenue  
Secretariat

File No.

4 of 1938

[App. F. III-2]

Serial  
No.

78) Subd. with a draft G.O.  
directing the publication  
of the Act. 79/137  
see 12/7/38.

1 G.O. no P 200 of 14/7 directing  
the publication of Act XI of 1938



Pres. Sec.  
Printed copies recd.  
see  
A1.

ACT No. X of 1922.

Passed by the Indian Legislature.

(Received the assent of the Governor-General on the 5th March 1922)

An Act further to amend the Indian Limitation Act, 1908.

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908; It is hereby enacted as follows:--

1. This Act may be called the Indian Limitation (Amendment Act, 1922.

2. In section 5 of the Indian Limitation Act, 1908 (hereinafter referred to as the said Act), for the words "by any enactment or rule" the words "by or under any enactment" shall be substituted

3. In section 29 of the said Act, -

(a) for sub-section (I) the following sub-section shall be substituted, namely:--

"29. (I) Nothing in this Act shall affect section 25 of the Indian Contract Act, 1872.

(2) Where any special or local law prescribes for any suit appeal or application a period of limitation different from the period prescribed therefor by the first schedule, the provision of section 3 shall apply, as if such <sup>were</sup> period prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law --

(a) the provisions contained in section 4, sections 9 to 18, and section 22 shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law; and

(b) the remaining provisions of this Act shall not apply; and (b) sub-sections (2) and (3) shall be re-numbered (3) and (4), respectively.

## Savings and repeals.

29. Nothing in this Regulation shall-

(a) affect the Indian Contract Act, 1872, section 25, as applied to Mysore:

(b) affect or alter any period of limitation specially prescribed for any suit, appeal or application by any special or local law now or hereafter in force in Mysore.

## Savings and Repeals.

Savings. 29. [(1) Nothing in this Act shall affect S. 25 of the Indian Contract Act, 1872.

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the first schedule the provisions of section 3 shall apply, as if such period were prescribed therefor in that schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law-

(a) the provisions contained in sections 9 to 18, and section 22 &

apply only in so far as and to the extent to which, they are not expressly excluded by such special or local law: and

(b) the remaining provisions of this Act shall not apply.]

(3) Nothing in this Act shall apply to suits under the Indian Divorce Act.

(4) Sections 26 and 27 and the definition of "easement" in Section 2 shall not apply to cases arising in territories to which the Indian Easements Act, may for the time being extend.

[ ] Sub-sections (1) and (2) were substituted for the old sub-section (1) and sub-sections (2) and (3) were renumbered as (3) & (4) by Act X of 1922.

An Act further to amend the Indian Limitation Act, 1908.

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908, for the purposes hereinafter appearing; It is hereby enacted as follows:-

1. (1) This Act may be called the Indian Limitation (Amendment) Act, 1929.

(2) It shall come into force on the 1st day of January 1929.

2. In section 10 of the Indian Limitation Act, 1908 (hereinafter referred to as the said Act), the following paragraph shall be inserted, namely:-

"For the purposes of this section any property comprised in a Hindu, Muhammadan or Buddhist religious or charitable endowment shall be deemed to be property vested in trust for a specific purpose, and the manager of any such property shall be deemed to be the trustee thereof"

3. In the First Division of the First Schedule to the said Act, -

(a) after Article 48, the following Articles shall be inserted, namely:-

|                                                                                                                                                                                     |              |                                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-----------------------------------------------|
| "48A. To recover moveable property conveyed or bequeathed in trust, deposited or pawned, and afterwards bought from the trustee, depositary or pawnee for a valuable consideration. | Three years. | When the sale becomes known to the plaintiff. |
| 48B. To set aside sale of moveable property comprised in a Hindu, Muhammadan or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration. | Three years. | When the sale becomes known to the plaintiff. |

(b) Article 133 shall be omitted;

(c) in Article 134, in the third column, for the words "The date of the transfer" the words "When the transfer becomes known to the plaintiff" shall be substituted; and

(d) after Article 134, the following Articles shall be inserted, namely:--

|                                                                                                                                                                                                                                                  |               |                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------------------------------------------------|
| "134A. To set aside a transfer of immoveable property comprised in a Hindu, Muhammadan or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.                                                    | Twelve years. | When the transfer becomes known to the plaintiff.    |
| 134B. By the manager of a Hindu, Muhammadan or Buddhist religious or charitable endowment to recover possession of immoveable property comprised in the endowment which has been transferred by a previous manager for a valuable consideration. | Twelve years. | The death, resignation or removal of the transferor. |
| 134C. By the manager of a Hindu, Muhammadan or Buddhist religious or charitable endowment to recover possession of moveable property comprised in the endowment which has been sold by a previous manager for a valuable consideration.          | Twelve years. | The death, resignation or removal of the seller".    |

Bill further to amend the Mysore  
Limitation Regulation 1911.

Whereas it is expedient to further  
amend the Mysore Limitation Regulation,  
1911; It is hereby enacted as follows :-

Short title and  
commencement.

1. (1) This Regulation may be called the  
Mysore Limitation (Amendment) Regulation,  
193—.

(2) It shall come into force on the  
first day of —

[Br. Indian Amendment  
Act) X of 1922]  
Amendment of S.5.

2. In Section 5 of the Mysore Limitation  
Regulation, 1911 (hereinafter referred to  
as the said Regulation), for the ~~words~~<sup>words</sup>  
"by any enactment or rule" the words  
"by or under any enactment" shall be sub-  
stituted.

[I of 1922] Amendment of  
S.10.

3. In Section 10 of the said Regulation  
the following paragraph shall be inserted,  
namely :-

"For the purposes of this section  
any property comprised in a Hindu, Maho-  
medan or Buddhist religious or charitable  
endowment shall be deemed to be property  
vested in trust for a specific purpose  
and the manager of any such property shall  
be deemed to be the trustee thereof."

Amendment [X of 1922]  
of S.29.

4. For Section 29 of the said Regula-  
tion

Regulation the following shall be substituted, namely, <sup>R</sup>29 (1) Nothing in this Regulation shall affect section 25 of the Indian Contract Act 1872, as ~~applied to~~ <sup>in force in</sup> Mysore;

(2) where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the first schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law,

(a) the provisions contained in sections 4, sections 9 to 18, and sections 22 shall apply only in so far as and to the extent to which, they are not expressly excluded by such special or local law; and

(b) the remaining provisions of this Regulation shall not apply.

[I of 1929.] Addition of Articles 48A and 48B.

5. In the First Division of the First schedule to the said Regulation, after Article 48, the following Articles shall be inserted, namely:-

- |                                                                                                                                                                                                       |                     |                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------------------------------------|
| <p>"48A. To recover moveable property conveyed or bequeathed in <del>trust</del>, deposited or pawned, and afterwards bought from the trustee, depository or pawnee for a valuable consideration.</p> | <p>Three years.</p> | <p>When the sale becomes known to the plaintiff.</p> |
| <p>48B. To set aside sale of moveable property comprised in a Hindu, Mahomedan or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.</p>             | <p>Three years.</p> | <p>When the sale becomes known to the plaintiff.</p> |

Amendment [XXI] of  
Art. 132 ~~of~~ 1929

6. To Article 132 in the First Division of the First Schedule to the said Regulation, the following explanation shall be added, namely :-

"Explanation.- Advances secured by *mortgage* by deposit of title deeds shall, for the purpose of this Article, be deemed to be money charged upon immovable property."

[I of 1929] Amendment  
of First  
Schedule.

7. In the First Division of the First schedule to the said Regulation :-

(a) Article 133 shall be ~~omitted~~.

(b) In Article 134, in the third column, for the words "The date of the transfer" the words "~~when the transfer becomes known to the plaintiff~~" shall be substituted; and

(c) after Article 134, the following Articles shall be inserted, namely:

- |                                                                                                                                             |                      |                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------------------------------------------|
| <p>"134A. To set aside a transfer of immoveable property comprised in a Hindu, Mahomedan or Buddhist <del>and</del> religious or chari-</p> | <p>Twelve years.</p> | <p>When the transfer becomes known to the plaintiff.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------------------------------------------|

charitable endowment made by a manager thereof for a valuable consideration.

134B. By the manager of a Hindu, Mahomedan or Buddhist religious or charitable endowment, to recover possession of immovable property comprised in the endowment which has been transferred by a previous manager for a valuable consideration.

Twelve years.

The death, resignation or removal of the transferor

134C. By the manager of a Hindu, Mahomedan or Buddhist religious or charitable endowment to recover possession of moveable property comprised in the endowment which has been sold by a previous manager for a valuable consideration.

Twelve years.

The death, resignation or removal of the seller.

Amendment of Art. 158.  
( XVIII of 1919 )

8. In the Third Division of the First Schedule to the said Regulation, in Art. 158 in the third column, for the words " when the award is submitted to the court", the words " when the award is filed in court and notice of the filing has been given to the parties " shall be substituted.

Amendment of Art. 166.

9. In the Third Division of the First Schedule to the said Regulation in Art. 166 in the first column, the words " or fraud" shall be inserted after the word " irregularity ".

Amendment of Articles 176,  
177 and 178  
( XXVI of 1920 )

10. In the Third Division of the First Schedule of the said Regulation, (a) in Articles 176 and 177 in the second column for the word " ditto " appearing against each Article the words " Ninety days " shall be substituted; and (b) in Article 178 in the second column for the word " Ditto " the words " Six months " shall be substituted.

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*But to be kept in mind with the purpose of*

*et*

STATEMENT OF OBJECTS AND REASONS.

In the judgment of the High Court in Motiram ~~Ram~~ Lala vs Deputy Commissioner and Muzrai Officer, Mysore District, (40 Mys. H.C.R. 330), it was suggested that Section 29 of the Limitation Regulation may be amended as in British India so as to make most of the exceptions and qualifications to Section 3 of the Limitation Regulation apply not only to the periods of limitation prescribed by that Regulation but to periods of limitation prescribed by other Regulations. Before the amendment in British India in 1922, Section 29 was the same as here. It provided that nothing in the Limitation Act shall affect or alter any period of limitation specially prescribed for any suit, appeal or applications by any special or local law. The interpretation of this provision was the subject of conflicting decisions by High Courts, some holding that <sup>*The application of*</sup> ~~to apply~~ the general provisions of the Limitation Act would be to affect the period of limitation prescribed under the special law and others holding a contrary view. To remove this conflict, Section 29 of the British Indian Act was amended by Act X of 1922. As suggested by the High Court in the judgment cited above, it is proposed to amend Section 29 of the Mysore Regulation as in British India. ( Vide clause 4). While amending Section 29 opportunity is taken to bring the Mysore Regulation into line with the Act in British India so far as it is suitable.

The chief of such amendments are explained  
below: -

Clause 2. - The change is verbal and better expresses the intention of the section.

Clause 3. - Recent decisions of Courts have taken the view that whenever property is conveyed to a religious or charitable institution, it is not held by the manager thereof as trustee. He holds it only as manager and the property does not vest in him in trust, with the result that suits against him in respect of the property of the endowments of this nature are not governed by Section 10 of the Limitation Regulation. Section 10 is therefore amended so as to put property of Hindu and Mahomedan religious endowments on the same footing as other trust property which definitely vest in a trustee.

Clause 5. - The provisions of Article 133 are enacted as Art. 48 A with the period of limitation curtailed to three years. Specific provision is made by Art. 48 B for the case of a suit to set ~~xxx~~ aside sales of moveable property comprised in a religious or charitable endowment where the plaintiff is merely interested in the endowment as a - beneficiary, but is not entitled to possession. The date when the plaintiff obtains knowledge of the sale he seeks to attack is the most suitable date from which limitation should run. If limitation runs from the date of purchase or even from the date of delivery of possession a dishonest trustee and a collusive transferee might conceal the fact until the period of limitation expires. With this change it is considered that a period of three years in the case of movable property is quite sufficient.

Clause 6. - As it is not definite what period of limitation should govern a suit to recover money due on a mortgage by the deposit of title deeds, provision is now made therefor by fixing a period of 12 years in such cases.

Clause 7. - The notes to clause 5 explain the reason for deleting Art. 133 which is enacted as Art. 48 A. As the manager of a religious or charitable institution is not a trustee, Arts. 133 and 134 as they stand would not be applicable to such institutions. This would also be in consonance with Order XXI, Rule 90 of C.P.C. in which an application to set aside a sale on the ground of fraud is placed on the same footing as an application to set aside a sale on the ground of material irregularity. It is proposed to bring religious or charitable endowments within the scope of the principle of Arts. 133 and 134. Suits by persons interested in the endowment to set aside alienations made by the manager <sup>are</sup> ~~is~~ <sup>for</sup> provided in Art. 48 B in respect of moveable property, and in Art. 134 A for immoveable property. In the case of suits by the manager himself attacking transfers made by a predecessor for valuable consideration and claiming to recover the property, provision is made by special Arts. 134B and 134 C. For reasons ~~stated~~ stated in the notes to clause 5, the starting point in Arts. 134 and 134A is proposed to be taken as the date of the plaintiff's knowledge of the transfer. It is also proposed to take as the starting point for Arts. 134 B and 134 C the death, resignation or removal of the transferring manager, ~~x~~ The period of limitation of 12 years which is normal in all similar cases is adopted for Arts. 134 A, 134B and 134C.

Clause 8. - Reading Art. 158 along with paragraph 10, second schedule C.P.C. it is desirable to make it ~~xxxx~~ definite that time will run from the day on which the parties receive notice that the award has been filed in Court.

Clause 9. - In interpreting this Article, decisions are not uniform whether fraud in publishing or conducting a sale would come within the scope of this article or not. It is proposed to make it clear that an application to set aside a sale on the ground of fraud in publishing or conducting a sale is governed by Art. 166.

Clause 10. - The time now allowed to bring the legal representative of a deceased party on record is six months. This is considered too long and it is proposed to reduce it to ninety days. This will help in reducing the delay in the disposal of suits. The reduction will not affect parties who are diligent. The apprehension that the change will prove a hardship to parties who will find it difficult to ascertain the address of the legal representatives, has no force. What is required is that an application mentioning the legal representative should be filed in court.

Delay in the service of summons owing to difficulty in ascertaining the address is sufficiently protected under the Civil Procedure Code.

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In the judgment of the High Court in  
Motiram -ala Vs Deputy Commissioner and Muzrai  
Officer, Mysore District, ( 40 Mys. H.C.R. 330)  
it was suggested that S. 29 of the Limitation  
Regulation <sup>may</sup> be amended as in British India so  
as to make most of the exceptions and qualifications  
to S.3 of the Limitation Regulation apply, not only  
to the periods of limitation prescribed by that  
Regulation, but to periods of limitation prescribed  
by other Regulations. Before the amendment in  
British India in 1922, section 29 was the same as  
here. It provided that nothing in the Limitation  
Act <sup>shall</sup> affect or alter any period of limitation  
specially prescribed for any suit, appeal or  
application by any special or local law. The  
interpretation of this provision was the subject  
of conflicting decisions by High Courts, some  
<sup>holding that</sup> ~~to apply~~ <sup>The application of</sup> the general provisions of the  
Limitation Act would be to affect the period of  
limitation prescribed under the special law and  
others holding a contrary view. To remove this  
conflict Section 29 of the British Indian Act  
was amended by Act X of 1922. As suggested by the  
High Court in the judgment cited above, it is  
proposed to amend Section 29 of the Mysore  
Regulation as in British India. While amending  
Section 29 opportunity is taken, so far as is  
suitable, to bring the Mysore Regulation into  
line with the Act in British India, which has  
undergone some substantial changes by amending  
Acts in 1919, 1920, 1922 and 1929.

The principles of the most important of such amendments are stated below:-

(i) Recent decisions have taken the view that whenever property is conveyed to a religious or charitable institution, it is not held by the manager thereof as trustee. He holds it only as manager, and the property does not vest in him in trust, with the result that suits against him in respect of the property of the endowments of this nature are not governed by Section 10 of the Limitation Regulation. Section 10 is therefore amended so as to put property of <sup>the</sup> Hindu and Mahomedan religious endowments <sup>in respect of the law of limitation</sup> on the same footing as other trust property, which definitely vests in a trustee.

<sup>relating to moveable property</sup>  
(ii) The provisions of Article 133<sup>a</sup> are enacted as Art. 48A with the period of limitation curtailed to three years. Specific provision is made for the case of a suit to set aside <sup>a</sup> sales of moveable property comprised in a religious or charitable endowment where the plaintiff is merely interested in the endowment as a beneficiary, but is not entitled to possession. The date when the plaintiff obtains knowledge of the sale he seeks to attack is the most suitable date from which limitation should run. If limitation runs from the date of purchase or even from the date of delivery of possession a dishonest trustee and a collusive transferee might conceal the fact until the period of limitation expires. With this change it is considered that a period of three years in the case of moveable property is quite sufficient.

(iii) As it is not definite what period of limitation should govern a suit to recover money due on a mortgage by the deposit of title deeds, provision is now made therefor by fixing a period of 12 years in such cases.

(iv) It is proposed to bring religious ~~and~~ charitable endowments within the scope of Articles 133 and 134. Suits by persons interested in the endowment to set aside ~~al~~ienations made by the manager <sup>are</sup> ~~is~~ provided for. Provision is also made for the case of suits by the manager himself attacking transfers made by a predecessor for valuable consideration and claiming to recover the property. It is proposed to take as the starting point the death, resignation or removal of the transferring manager and to adopt as the period of limitation ~~the~~ twelve years, which is <sup>the</sup> normal <sup>period</sup> in all similar cases.

(v) Reading Article 158 along with paragraph 10, second schedule, C.P.C. it is desirable to make it definite that time will run from the day on which the parties receive notice that the award has been filed in court.

(vi) Application to set aside a sale in execution of a decree on the ground of fraud in publishing or conducting the sale is also included under Art. 166.

(vii) The time now allowed <sup>for bringing the</sup> to bring the legal representative of a deceased party on record is six months. This is considered too long and it is proposed to reduce it to ninety days. This will help in reducing the delay in the disposal of suits.

The reduction will not affect parties who are diligent. The apprehension that the change will prove a hardship to parties who find it difficult to ascertain the address of the legal representatives has not <sup>much</sup> force. What is required is that an application mentioning the legal representative should be filed in court.

Delay in the service of summons owing to difficulty in ascertaining the address is sufficiently protected under the Civil Procedure Code.

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Statement of General Principles of the Bill to  
amend the Limitation Regulation.

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In the judgment of the High Court in *Vetiram Lala*  
*vs. Deputy Commissioner and Muzrai Officer, Mysore District*  
(40 Mys.H.C.R.330) it was suggested that 3.29 of the Limitation Regulation might be amended as in British India so as to make most of the exceptions and qualifications to of the Limitation Regulation apply, not only to the periods of limitation prescribed by that Regulation, but to periods of limitation prescribed by other Regulations. Before the amendment in British India in 1922, section 29 was the same as here. It provided that nothing in the Limitation Act should affect or alter any period of limitation specially prescribed for any suit, appeal or application by any special or local law. The interpretation of this provision was the subject of conflicting decisions of High Courts, some holding that the application of the general provisions of the Limitation Act would be to affect the period of limitation prescribed under the special law and others holding a contrary view. To remove this conflict Section 29 of the British Indian Act was amended by Act 7 of 1922. As suggested by the High Court in the judgment cited above, it is proposed to amend Section 29 of the Mysore Regulation as in British India. While amending Section 29 opportunity is taken, so far as is suitable, to bring the Mysore Regulation into line with the Act in British India, which has undergone some substantial changes by amending Acts in 1919, 1920, 1922 and 1923.

The principles of the most important of such amendments are indicated below:-

12. Recent decisions have taken the view that whenever property is conveyed to a religious or charitable institution it is not held by the manager thereof as trustee. He holds it only as manager, and the property does not vest in him in trust, with the result that suits against him in respect of the property of endowments of this nature are not governed by Section 10 of the Limitation Regulation. Section 10 is therefore amended so as to put property of Hindu and Mahomedan religious endowments in respect of the law of limitation on the same footing as other trust property, which definitely vests in a trustee.

(ii) The provisions of Article 133 relating to movable property are enacted as Art. 48A with the period of limitation curtailed to three years. Specific provision is made for the case of a suit to set aside a sale of movable property comprised in a religious or charitable endowment where the plaintiff is merely interested in the endowment as a beneficiary, but is not entitled to possession. The date when the plaintiff obtains knowledge of the sale he seeks to attack is the most suitable date from which limitation should run. If limitation ran from the date of purchase or even from the date of delivery of possession a dishonest trustee and a collusive transferee might conceal the fact until the period of limitation expired. With this change it is considered that a period of three years in the case of movable property is quite sufficient.

(iii) As it is not definite what period of limitation should govern a suit to recover money due on a mortgage by

by the deposit of title deeds, provision is now made therefor by fixing a period of 12 years in such cases.

(iv) It is proposed to bring religious and charitable endowments within the scope of Articles 133 and 134. Suits by persons interested in an endowment to set aside alienations made by the manager are provided for. Provision is also made for the case of suits by the manager himself attacking transfers made by a predecessor for valuable consideration and claiming to recover the property. It is proposed to take as the starting point the death, resignation or removal of the transferring manager and to adopt as the period of limitation twelve years, which is the normal period in similar cases.

(v) Reading Article 158 along with paragraph 10, second schedule, C.F.C. it is desirable to make it definite that time will run from the day on which the parties receive notice that the award has been filed in court.

(vi) Application to set aside a sale in execution of a decree on the ground of fraud in publishing or conducting the sale is also included under Art. 166.

(vii) The time now allowed for bringing the legal representative of a deceased party on record is six months. This is considered too long and it is proposed to reduce it to ninety days. This will help in reducing the delay in the disposal of suits. The reduction will not affect parties who are diligent. The apprehension that the change will prove a hardship to parties who find it difficult to ascertain the address of the legal representatives has no such force. What is required is that an application

application mentioning the legal representative should  
be filed in court. Delay in the service of summons owing  
to difficulty in ascertaining the address is sufficiently  
protected under the Civil Procedure Code.

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# THE MYSORE REPRESENTATIVE ASSEMBLY.

*DASARA SESSION—OCTOBER 1937.*

## STATEMENT OF GOVERNMENT BUSINESS TO BE PLACED BEFORE THE REPRESENTATIVE ASSEMBLY.

### **I. Statement of General Principles of the Bill to amend the Code of Civil Procedure.**

One of the recommendations of the Royal Commission on Labour in India was that the wages and salaries of workmen receiving less than Rs. 300 per month should be entirely exempt from attachment. The Government of India, in consultation with the Local Governments, have come to the conclusion that Rs. 100 is a more suitable limit than Rs. 300 and that the benefit of this recommendation should be given not only to workmen but also to public officers and servants of Local Bodies and Railways. Section 60 of the Code of Civil Procedure relating to attachment of salary in British India has been suitably amended by Act IX of 1937 to give effect to this recommendation. It is now proposed to take action on similar lines in Mysore.

At present in Mysore, the salary wholly exempt from attachment is Rs. 20 and where the salary is Rs. 40, Rs. 20 is exempt and a moiety of it in other cases. A committee appointed some time back to examine the question of indebtedness of officials in Mysore, recommended that in respect of attachment of salary by Civil Courts, the exemption limit may be raised from Rs. 20 to Rs. 50. Having regard to the conditions prevailing in Mysore it is considered that salary up to and inclusive of Rs. 50 and also one-half of the remainder of such salary should be exempt from attachment. The Bill is intended to give effect to these proposals.

### **II. Statement of General Principles of the Bill to amend the Mysore Village Panchayet Regulation.**

Before the introduction of the Village Panchayet Regulation, the Revenue Officers were assessing and collecting the Mohatarfa taxes and crediting them to the funds of the District Boards. With the introduction of the Village Panchayet Regulation from 1st February 1927, these taxes were replaced by Panchayet taxes and the duty of assessing and collecting them devolved on the Panchayets. Although under the Regulation, Village Panchayets are invested with sufficient powers to assess and collect the taxes, experience has shown that the Panchayet Chairmen are generally negligent or unwilling to shoulder the unpopular duty of collection, and even in fixing the assessment, they have not been exercising sufficient discretion. In some Village Panchayets no action has been taken even to prepare the assessment lists.

Since the year 1930, Government have passed several orders enabling the Village Panchayets to collect the arrears of taxes by entrusting the work to village officers and by authorising the Deputy Commissioners to employ Special Revenue Inspectors for the purpose. But these measures too have led to no material improvement. The arrears of Village Panchayet taxes have gone on increasing from year to year until at the end of 1935-36, they amounted to Rs. 43,12,205 on account of obligatory taxes alone. Government consider that in order to ensure prompt collection of Village Panchayet taxes and thereby provide sufficient funds for undertaking works of permanent utility, the old system under which the revenue officers were entirely responsible for the assessment and collection of the Mohatarfa taxes, should be revived.

The question was referred to the Standing Committee for Local Self-Government and the Departments of Medicine and Health at their meeting held on 1st

May 1937, and it was their general opinion that the amendment of the Regulation in the manner proposed is very necessary in the interests of Panchayet Administration in the State. It was also represented at the last session of the Representative Assembly in June 1937 that it would be desirable to revert to the old system of collection.

The proposed amendment is intended to give effect to this change of system. According to the revised procedure, the Amildar will be responsible for assessing the rates of obligatory taxes to be levied and for the preparation of the assessment list in respect of each Panchayet in the Taluk. The Panchayets, however, will continue to have the power of levying optional taxes, but the collection of these taxes also will be entrusted to the Amildar. The period of limitation for the recovery of the Village Panchayet dues is also intended to be enhanced from three to six years.

### III. Statement of General Principles of the Bill to amend the Limitation Regulation.

In the judgment of the High Court in *Motiram Lala vs. Deputy Commissioner and Muzrai Officer, Mysore District* (40 Mys. H. C. R. 330), it was suggested that Section 29 of the Limitation Regulation might be amended as in British India so as to make most of the exceptions and qualifications to Section 3 of the Limitation Regulation apply, not only to the periods of limitation prescribed by that Regulation, but to periods of limitation prescribed by other Regulations. Before the amendment in British India in 1922, Section 29 was the same as here. It provided that nothing in the Limitation Act should affect or alter any period of Limitation specially prescribed for any suit, appeal or application by any special or local law. The interpretation of this provision was the subject of conflicting decisions by High Courts, some holding that the application of the general provisions of the Limitation Act would be to affect the period of limitation prescribed under the special law and others holding a contrary view. To remove this conflict, Section 29 of the British Indian Act was amended by Act X of 1922. As suggested by the High Court in the judgment cited above, it is proposed to amend Section 29 of the Mysore Regulation as in British India. While amending Section 29 opportunity is taken, so far as is suitable, to bring the Mysore Regulation into line with the Act in British India, which has undergone some substantial changes by amending Acts in 1919, 1920, 1922 and 1929.

The principles of the most important of such amendments are indicated below:—

(i) Recent decisions have taken the view that whenever property is conveyed to a religious or charitable institution, it is not held by the manager thereof as trustee. He holds it only as manager, and the property does not vest in him in trust, with the result that suits against him in respect of the property of endowments of this nature are not governed by Section 10 of the Limitation Regulation. Section 10 is therefore amended so as to put property of Hindu and Mahomedan religious endowments in respect of the law of limitation on the same footing as other trust property which definitely vests in a trustee.

(ii) The provisions of Article 133 relating to movable property are enacted as Article 48A with the period of limitation curtailed to three years. Specific provision is made for the case of a suit to set aside a sale of movable property comprised in a religious or charitable endowment where the plaintiff is merely interested in the endowment as a beneficiary, but is not entitled to possession. The date when the plaintiff obtains knowledge of the sale he seeks to attack, is the most suitable date from which limitation should run. If limitation runs from the date of purchase or even from the date of delivery of possession, a dishonest trustee and a collusive transferee might conceal the fact until the period of limitation expired. With this change it is considered that a period of three years in the case of movable property is quite sufficient.

(iii) As it is not definite what period of limitation should govern a suit to recover money due on a mortgage by the deposit of title deeds, provision is now made therefor by fixing a period of 12 years in such cases.

(iv) It is proposed to bring religious and charitable endowments within the scope of Articles 133 and 134. Suits by persons interested in an endowment to set

aside alienations made by the manager are provided for. Provision is also made for the case of suits by the manager himself attacking transfers made by a predecessor for valuable consideration and claiming to recover the property. It is proposed to take as the starting point the death, resignation or removal of the transferring manager and to adopt as the period of limitation twelve years, which is the normal period in similar cases.

(v) Reading Article 158 along with paragraph 10, second schedule, Civil Procedure Code it is desirable to make it definite that time will run from the day on which the parties receive notice that the award has been filed in court.

(vi) Application to set aside a sale in execution of a decree on the ground of fraud in publishing or conducting the sale is also included under Article 166.

(vii) The time now allowed for bringing the legal representative of a deceased party on record is six months. This is considered too long and it is proposed to reduce it to ninety days. This will help in reducing the delay in the disposal of suits. The reduction will not affect parties who are diligent. The apprehension that the change will prove a hardship to parties who find it difficult to ascertain the address of the legal representatives has not much force. What is required is that an application mentioning the legal representative should be filed in court. Delay in the service of summons owing to difficulty in ascertaining the address is sufficiently protected under the Civil Procedure Code.

#### **IV. Statement of General Principles of the Bill to amend the transfer of Property Regulation.**

The Transfer of Property Regulation in Mysore was passed in 1918 on the lines of the British Indian Act of 1882 and all amendments passed in British India up to 1918 were taken into consideration. The British Indian Act has subsequently been amended, more particularly by Act XX of 1929 which made substantial changes in many sections and set at rest points on which there had been conflicting decisions. It is considered desirable to adopt these amendments as it is also convenient to have a law in this respect on the same lines as in British India with suitable variations dictated by local conditions. A Bill has accordingly been drafted.

In the Bill it has been sought to remedy only defects which have led to inconvenience or anomalous results and to incorporate new principles of importance which have been judicially recognised.

Special attention is drawn to the following principles included in the Bill:—

1. Provision is made so that registration will amount to notice of the document registered.

2. Constructive notice to an agent of a fact material to the course of business in which the agent is engaged will be notice of that fact to the principal. The agent must not have fraudulently concealed the fact from his principal.

3. The validity of transfers in favour of a class of persons when some members of that class are unable to take possession, is recognised so that they may ensure to the benefit of those members of the class who are capable of taking possession.

4. The doctrine of part performance is recognised. At the same time provision is made for the purpose of securing that the law of registration is not evaded.

5. In a mortgage by conditional sale, the condition must be embodied in the mortgage deed;

6. Provision is made to require a mortgagee to transfer, when so required, the mortgage debt to a third person named by the mortgagor;

7. It is made clear that the mortgagor has a right to inspect and take copies of the documents of title relating to the mortgaged property which are in the possession of the mortgagee;

8. It is also made clear that the mortgagor has the option to redeem several mortgages to the same mortgagee separately or simultaneously as he may think fit;

9. There is no express provision in the Regulation allowing a mortgagee to make necessary improvements to the mortgaged property. This is now provided for;

10. Statutory recognition is given to the mortgagor's power to lease in such a way as to bind the mortgagee subject to certain safeguards;

11. The remedy of foreclosure is abolished in the case of all mortgages except mortgages by conditional sale or anomalous mortgages providing expressly for foreclosure;

12. The mortgagee is obliged to enforce several mortgages by the same mortgagor simultaneously in the absence of contract to the contrary;

13. Provision is made for the Court to stay a suit for enforcing a personal remedy against the mortgagor till the mortgagee has exhausted his remedies against the mortgaged property;

14. The principle of subrogation is extended so that all persons who have an interest in the mortgaged property other than the mortgagor will be entitled to be substituted in the place of the creditor who is paid off;

15. The law of merger is modified so that the creditor may have the benefit of keeping alive against subsequent incumbrances, his own incumbrance as well as those which he has paid off;

16. Leases are to be required to be executed by both parties.

## V. The Transfer of Property (Amendment) Supplementary Bill.

### STATEMENT OF GENERAL PRINCIPLES.

Consequent on the amendments proposed to the Transfer of Property Regulation, it has become necessary to introduce amendments to (1) the Specific Relief Act, (2) the Registration Regulation, (3) the Succession Act, (4) the Limitation Regulation and (5) the Code of Civil Procedure.

Amendments to the Specific Relief Act give effect to the principle of part performance embodied in the new section 53 A of the Transfer of Property Regulation.

The Registration Regulation is amended so that assignments of decrees, orders and awards, relating to immovable property may be always registered. Courts will be empowered to admit unregistered documents in evidence in giving effect to the doctrine of part performance.

The Succession Act is amended in conformity with the amendments to sections 15 to 18 of the Transfer of Property Regulation.

Amendment to the Limitation Regulation providing for a period of limitation governing suits to recover money due on a mortgage by the deposit of title deeds is included in the Bill to amend the Limitation Regulation.

The amendments to the Code of Civil Procedure relate to Order XXXIV of the First Schedule thereto and the forms in Appendix D. These may, in due course, be made by the High Court itself under its rule-making power, and they are not therefore included in the Bill.

BANGALORE, }  
2nd October 1937. }

A. SUNDARARAJA RAO,  
Secretary,  
Mysore Representative Assembly.

BILL FURTHER TO AMEND THE MYSORE LIMITATION  
REGULATION, 1911.  
*Act*

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Report of the Select Committee on the  
Bill further to amend the Mysore Limitation  
Regulation, 1911.  
*Act*

We, the undersigned members of the Select  
Committee to which the Bill further to amend the  
Mysore Limitation Regulation, 1911, was referred  
have considered the Bill and have now the honour  
to submit this our Report.

2. We consider that no changes are neces-  
sary.

3. The Bill need not be republished.

*Aswathappa*

*Aravada Rao*

*Behn Twarang*

*Murli Narayan*

*Narayan P.*

*M. Venkateswara*

*- 7.5.38*

*S. P. Rajagopalachari*

messrs B. S. Puttaswamy and S. S. Srinivasan  
Chetty were unable to be present at the  
meeting. ~~Mr~~ Rajamantappa and Mr.  
S. P. Rajagopalachari being unable to  
be present at the meeting, Rajasakha-  
bhushana Dinean Bahadur K. R.  
Srinivasa Iyengar was elected as  
Chairman.

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NOTIFICATION.

No. 3733—L. C. Bangalore, dated 12th May 1938.

Under Standing Order No. 49 of the standing orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bill further to amend the Mysore Limitation Act, 1911, is published for general information.

By Order,

A. SUNDARARAJA RAO,  
*Secretary,*  
*Mysore Legislative Council.*

**Report of the Select Committee on the Bill further to amend  
the Mysore Limitation Act, 1911.**

We, the undersigned members of the Select Committee to which the Bill further to amend the Mysore Limitation Act 1911, was referred, have considered the Bill and have now the honor to submit this, our Report.

2. We consider that no changes are necessary.
3. The Bill need not be republished.

K. R. SRINIVASA IYENGAR  
(Chairman),

C. HAYAVADANA RAO,  
BELUR SRINIVASA IYENGAR,  
MIRLE N. LAKSHMINARANAPPA,  
M. VENKATESA IYENGAR.

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Messrs. B. S. Puttuswamy and P. Subbarama Chetty were unable to be present at the meeting. *Rajamantrapravina* S. P. Rajagopalachari being unable to be present at the meeting, *Rajasabhabhushana* Diwan Bahadur K. R. Srinivasa Iyengar was elected as Chairman.

As finally passed

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## NOTIFICATION.

No. 2824—L. C., Bangalore dated 9th December 1937.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore Limitation Regulation, 1911, is published for general information with the statement of objects and reasons.

By Order,  
A. SUNDARARAJA RAO,  
Secretary,  
Mysore Legislative Council.

### Bill further to amend the Mysore Limitation Regulation, 1911.

Whereas it is expedient further to amend the Mysore Limitation Regulation, 1911; it is hereby enacted as follows:—

1. (1) This Regulation may be called the Mysore Limitation (Amendment) Regulation, 1938. Short title and commencement.  
(2) It shall come into force on the first day of October 1938.

2. In section 5 of the Mysore Limitation Regulation, 1911 (hereinafter referred to as the said Regulation), for the words "by any enactment or rule" the words "by or under any enactment" shall be substituted. Amendment of Section 5.

3. In section 10 of the said Regulation, the following paragraph shall be inserted, namely:— Amendment of section 10.

"For the purposes of this section any property comprised in a Hindu, Mahomedan or Buddhist religious or charitable endowment shall be deemed to be property vested in trust for a specific purpose and the manager of any such property shall be deemed to be the trustee thereof."

4. For section 29 of the said Regulation, the following shall be substituted, namely:— Amendment of section 29.

"29 (1) Nothing in this Regulation shall affect section 25 of the Indian Contract Act, 1872, as in force in Mysore;

(2) where any special or local law prescribes for any suit, appeal or application a period of limitation

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different from the period prescribed therefor by the First Schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law,

(a) the provisions contained in section 4, sections 9 to 18, and section 22 shall apply only in so far as and to the extent to which, they are not expressly excluded by such special or local law; and

(b) the remaining provisions of this ~~Regulation~~ <sup>Act</sup> shall not apply."

Addition of  
Articles 48-A  
and 48-B.

5. In the first division of the First Schedule to the said ~~Regulation~~ <sup>Act</sup>, after Article 48, the following articles shall be inserted, namely:—

|                                                                                                                                                                                    |             |                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------------|
| 48-A. To recover movable property conveyed or bequeathed in trust, deposited or pawned, and afterwards bought from the trustee, depository or pawnee for a valuable consideration. | Three years | When the sale becomes known to the plaintiff. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------------|

|                                                                                                                                                                                    |             |                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------------|
| 48-B. To set aside sale of movable property comprised in a Hindu, Mahomedan or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration. | Three years | When the sale becomes known to the plaintiff. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------------|

Amendment  
of Art. 132.

6. To Article 132 in the First Division of the First Schedule to the said ~~Regulation~~ <sup>Act</sup>, the following explanation shall be added, namely:—

"*Explanation.*—Advances secured by mortgage by deposit of title deeds shall, for the purposes of this article, be deemed to be money charged upon immovable property."

Amendment  
of First  
Schedule.

7. In the First Division of the First Schedule to the said Regulation:—

(a) Article 133 shall be omitted.

(b) In Article 134, in the third column, for the words "The date of the transfer" the words "when the transfer becomes known to the plaintiff" shall be substituted; and

(c) After Article 134, the following articles shall be inserted, namely:—

- |                                                                                                                                                                                                                                                                              |                  |                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------------------------------------------------------|
| 134-A. To set aside a transfer of im-<br>movable property comprised<br>in a Hindu, Mahomedan or<br>Buddhist religious or charit-<br>able endowment made by a<br>manager thereof for a valu-<br>able consideration.                                                           | Twelve<br>years. | When the transfer<br>becomes known<br>to the plaintiff.     |
| 134-B. By the manager of a Hindu,<br>Mahomedan or Buddhist<br>religious or charitable en-<br>dowment, to recover posses-<br>sion of immovable property<br>comprised in the endowment<br>which has been transferred<br>by a previous manager for a<br>valuable consideration. | Twelve<br>years  | The death, resigna-<br>tion or removal<br>of the transferor |
| 134-C. By the manager of a Hindu,<br>Mahomedan or Buddhist<br>religious or charitable en-<br>dowment to recover posses-<br>sion of movable property<br>comprised in the endowment<br>which has been sold by a<br>previous manager for a<br>valuable consideration.           | Twelve<br>years  | The death, resigna-<br>tion or removal<br>of the seller.    |

8. In the Third Division of the First Schedule to the said Regulation, in Article 158 in the third column, for the words "when the award is submitted to the court," the words "when the award is filed in court and notice of the filing has been given to the parties" shall be substituted. Amendment  
of Art. 158.

9. In the Third Division of the First Schedule to the said Regulation in Article 166 in the first column, the words "or fraud" shall be inserted after the word "irregularity." Amendment  
of Art. 166.

10. In the Third Division of the First Schedule of the said Regulation, (a) in Articles 176 and 177 in the second column for the word "ditto" appearing against each article the words "Ninety days" shall be substituted; and (b) in Article 178 in the second column for the word "Ditto" the words "six months" shall be substituted. Amendment  
of Arts. 176,  
177 and 178.

*Statement of Objects and Reasons.*

In the judgment of the High Court in *Motiram Lala vs. Deputy Commissioner and Muzrai Officer, Mysore*

District (40 Mys. H. C. R. 330), it was suggested that section 29 of the Limitation Regulation may be amended as in British India so as to make most of the exceptions and qualifications to section 3 of the Limitation Regulation apply not only to the periods of limitation prescribed by that Regulation but to periods of limitation prescribed by other Regulations. Before the amendment in British India in 1922, section 29 was the same as here. It provided that nothing in the Limitation Act shall affect or alter any period of limitation specially prescribed for any suit, appeal or applications by any special or local law. The interpretation of this provision was the subject of conflicting decisions by High Courts, some holding that the application of the general provisions of Limitation Act would be to affect the period of limitation prescribed under the special law and others holding a contrary view. To remove this conflict, section 29 of the British Indian Act was amended by Act X of 1922. As suggested by the High Court in the judgment cited above, it is proposed to amend section 29 of the Mysore Regulation as in British India (*Vide* clause 4). While amending section 29 opportunity is taken to bring the Mysore Regulation into line with the Act in British India so far as it is suitable.

The chief of such amendments are explained below:—

*Clause 2.*—The change is verbal and better expresses the intention of the section.

*Clause 3.*—Recent decisions of courts have taken the view that whenever property is conveyed to a religious or charitable institution, it is not held by the manager thereof as trustee. He holds it only as manager and the property does not vest in him in trust, with the result that suits against him in respect of the property of the endowments of this nature are not governed by section 10 of the Limitation Regulation. Section 10 is therefore amended so as to put property of Hindu and Mahomedan religious endowments on the same footing as other trust property which definitely vest in a trustee.

*Clause 5.*—The provisions of Article 133 are enacted as Article 48-A with the period of limitation curtailed to three years. Specific provision is made by Article 48-B for the case of a suit to set aside sales of movable property comprised in a religious or charitable endowment where the plaintiff is merely interested in the endowment as a

*HA 10*  
*6/38*

13. Bill further to amend the Mysore Limitation Act, 1911.

(a) Motion that the Bill published under Rule 8 of the Rules of Business be read in Council.

The FIRST MEMBER (Rajamantravina S.P. Rajagopalachari) Sir, ~~xxxxxxx~~ I move that the Bill further to amend the Mysore Limitation Act be read in Council.

While considering the effect of Section 29 of the Limitation Act as it stands in Mysore, the High Court of Mysore, in the case reported in 40 Mys. H.C. Reports - Page 330 held that most of the exceptions ~~are~~ and qualifications to Section 3 of the Limitation Act do not apply to periods of limitation prescribed by special laws such as the Muzrai Act

Prior to 1922, the wording of Section 29 ~~the~~ in/British Indian Civil Procedure Code was the same as it is here now and this had led to a conflict of decisions by various High Courts, some holding that the application of the general provisions of the Limitation Act would be to affect the period of limitation prescribed under special laws while some others taking a contrary view.

In order to remove this conflict, Section 29 was amended in British India by Act X of 1922. The Hon. the Chief Justice in the course of the judgment mentioned above, has suggested that Section 29 should be amended so as to bring it into line with Section 29 of the British Indian Act as it exists

now. It is convenient that our ~~Law of Limitation~~ law of limitation should be similar to that of British India as far as possible. Opportunity has been taken now to bring our Act into line with that in British India, in various other matters also. We consulted the High Court of Mysore and they were in favour of adopting the amendments which are contained in the bill. The bill has been published and the statement of objects and reasons attached to the bill explains fully the scope of the several clauses of the bill. I shall therefore make a brief reference only to the more important of these amendments.

The starting point of limitation Under Articles 133 and 134 in the case of alienation of moveable properties comprised in a religious or charitable endowment is the date of purchase or transfer. The most suitable date seems to be the date when the plaintiff obtains knowledge of the transfer he seeks to attach. This change is adopted in the bill and the period of limitation in the case of the sale of movable property is reduced from 12 years to 3 years.

Doubts have often arisen whether Article 166 as it stands applies to setting aside of execution sales on the ground of fraud in publishing or conducting a sale. To remove this doubt, Article 166 is proposed to be amended so as to make it applicable to cases of fraud.

It is felt that the period of ~~six~~ six months ~~xxx~~ prescribed under Articles 176 and 177 is too long and that it may conveniently be reduced to 90 days. This will tend to avoid ~~great~~ delays in the disposal of cases. The curtailment will not affect parties who are diligent. Except in rare cases, the plaintiff will be aware that a defendant is dead

and somebody else has got to be put into his place. All that is required is that an application mentioning the legal representatives should be filed within three months. As regards service of notice, the provisions of the Civil Procedure Code will apply. There has been some apprehension expressed specially in the Representative Assembly that this reduction of the period of limitation is likely to cause hardship. This provision has existed in British India for over 25 years and it has not worked adversely to parties there. The Laws Delays Committee ~~has~~ has recommended this change and the High Court also are in favour of it.

The Representative Assembly at its last session has accepted the general principles of the bill.

I now move that the bill be read in Council.

MR. M. VENKATESA IYENGAR (The General Secretary to Government) Sir, I beg to second the motion.

MR. PRESIDENT: The question is:

"That the Bill further to amend the Mysore Limitation Act, 1911, published under Rule 8 of the Rules of Business be read in Council."

The motion was adopted.

(b) Motion that the Bill be referred to a Select Committee.

MR. S.P. RAJACOPALACHARI: Sir, ~~Mr~~ I move that the Bill be referred to a Select Committee consisting of the following gentlemen:-

Mr. Mirle N. Lakshminaranappa  
Mr. M. Venkatesa Iyengar  
~~Mr~~ Rajasabhabhushana Diwan Bahadur  
K.R. Srinivasiengar.  
Mr. Belur Srinivasa Iyengar.  
Mr. B.S. Puttaswami.  
Rajacharitavisarada Rao Sahib  
C. Hayavadana Rao.  
Mr. P. Subbarama Chetty and  
Myself.

MR. M. VENKATESA IYENGAR: Sir, I beg to second the motion.

MR. PRESIDENT: The question is :

"That the Bill further to amend the Mysore Limitation Act be referred to a select committee consisting of the gentlemen named by the Mover."

The motion was adopted.

GOVERNMENT BUSINESS - BILLS (Concl'd.)

III. General Principles of the Bill to amend the  
Limitation Regulation.

*General Deptt*  
The ~~GOVERNMENT~~ SECRETARY TO GOVERNMENT (Mr.

Venkatasa Iyengar) explained the general principles  
of the measure as follows:—

A  
Mr. ~~A.~~ BHIMARAO RAJH supported the measure on the ground that it ~~must~~ sought to rectify certain defects in the existing law.

Mr. B. MAHILASA while generally agreeing with the ~~presently proposed~~ measure said that the reduction, from six months to ninety days, of the time allowed for bringing the legal representatives of a deceased party on record might work as a hardship to the ~~parties~~ parties and suggested that the time be not reduced.

Mr. C.N. NARASINGA RAO in further supporting the measure said that there could be no difference of opinion as to the desirability of the amendments proposed in paras (i) to (vi) of the statement of general principles. As regards para (vii), he agreed with the previous speaker that the reduction of the period to 90 days would cause undue hardship to the parties concerned in addition to unnecessarily disturbing a state of things to which the litigant public

There was a proposal to this effect on a previous occasion in this very House, but the Members did not agree to it.

had long been accustomed. It might be that this amendment was brought up with the object of facilitating prompt disposal of cases. But that should not be the only object of the Government. They should bear in mind that justice should be done to parties even though that might mean some time. He was aware of appeals which were 4 or 5 years old not having come up for hearing in some of the higher courts. Before such cases ~~are~~ <sup>were</sup> disposed of, any one of the parties ~~may~~ <sup>might</sup> die and it might not be possible for the other parties, especially if they were minors ignorant of the law, to get <sup>at</sup> all the ~~representations~~ legal representatives of the former. The proposed amendment would affect all such people. So, it was necessary to retain the existing provi-

provision. If it was considered necessary to reduce the period to 90 days as proposed in the amendment, a proviso might be added to the effect that the period be calculated from the date of receipt of information by one of the parties about the death of the other party. If this was agreed to, he would have no objection/ to support the amendment referred to in (vii) also.

Mr. S. RANGARAJAIA also agreed to the general principles placed before the House. He said that the proposal to treat managers of properties of charitable institutions as trustees thereof was a salutary provision. At present, the properties of such institutions were being mismanaged and in many cases, the managers were doing disservice to the institutions. With a view to protect the interests of those institutions, this provision was necessary.

As regards the proposed reduction of time for bringing legal representatives of a deceased on record he agreed with the views expressed by the previous speaker. If the suggestion of that speaker did not commend itself to the Government, then he suggested that the Courts might at least be given the discretion to allow more time in special cases.

Mr. A.N. RAMA RAO said that the House was in entire agreement as regards the amendments suggested in paras (i) to (vi). As regards item (vii), he said that his experience was that in some cases even the present period of six months was inadequate because, according to the Hindu Law, relationship to the seventh degree would have to be examined. So also under the Mahomedan Law. Such an examination would naturally

take longer than 6 months, more especially if the parties happened to live in different places. For this reason, he supported the modification suggested by Mr. C.R. Narasinga Rao.

Mr. B.L. BYANNA also was in favour of retaining the period at 6 months.

Mr. J. ASHATHANARAYANA RAO <sup>Said</sup> ~~suggested~~ that in the Bill ~~to amend the Limitation Regulation~~, provision was proposed to be made defining the period of limitation in respect of suits to recover moneys due on mortgages by deposit of title deeds, while anomalous mortgages which were provided for in the Transfer of Property Act were excluded in the Limitation Regulation. For this reason, he thought it would be better if the general principles of the Bill to amend the Limitation Regulation as well as those of the Transfer of Property (Amendment) Supplementary Bill be considered together. The Mysore Transfer of Property Regulation was passed in 1918 and differed in some respects from the British Indian Act. It would be well if necessary amendments were made to bring the former law into ~~ambiguity~~ line with the latter. Clauses (f) and (g) of Section 58, for example, might well be embodied on the lines of the British Indian Act, so that the term "anomalous mortgage" might be defined ~~here also~~ here also. It was also not known whether the suits referred to in para (iii) of the statement would apply only to the cities or throughout the State. People in the villages were at present experiencing great difficulty since creditors were insisting upon the debtors producing all the title deeds whether it was a simple mortgage or mortgage by deposit of title ~~deeds~~ deeds, and cases result-

resulting ~~in~~ from such instances were left to be interpreted by different authorities in different ways.

As regards para (vii), ~~the~~ the difficulty about the time required for bringing on record the legal representatives of a deceased party was not felt so much in the original courts as in revision or appellate ~~an~~ courts. So, in the latter cases, provision would have to be made for granting extension of time if the court was convinced that within the time already allowed it was not possible for the party to ascertain and furnish the names and addresses of the legal representatives of the other (deceased) party.

In the same connection, it was necessary to note that the existing law left room for a doubt as to whether section 5 would apply to all cases or not, since what was referred to was only "appeal or application", suggesting thereby that it would not apply to ex parte decrees. If the main object was to expedite disposal of cases, it would be necessary to declare that section 5 would apply to ex parte decrees also. If this was done, there need be no objection to reducing the period of time from 6 months to 2. Otherwise, it would lead to difficulties as stated by Mr. C.N. Narasinga Rao.

take longer than 6 months, more especially if the parties happened to live in different places. For this reason, he supported the modification suggested by Mr. S. N. KUNHURU Narasimha Rao.

Mr. B. L. BYANNA also was in favour of retaining the period at 6 months.

Mr. A. VENKATESIAH said that there was no Trust Act in force in Mysore though the general principles of that Act were being respected here. So, if Section 10 of the Limitation Regulation was amended as now proposed, it would become the duty of the Government in the case of religious and charitable institutions to enquire whether all the income received on behalf of such institutions was being regularly credited to their accounts. And <sup>in</sup> if any case it was found that a manager had not <sup>o</sup> properly accounted for the moneys received, it would become necessary for the Government to interfere under the provisions of the Religious Endowments Regulation; and for the recovery of the sums, steps would have to be taken on the revenue side, such as attachment of the property in question and leasing out the same. If the ~~act~~ action related only to taking possession of a land, the object of the Government would thus be fully secured. But if action was to be taken for securing compensation for loss of revenue, other steps would have to be taken. But difficulties would crop up in the case of inam villages and institutions situated therein. The interest of Government in such institutions might have accrued only by virtue of a small tasdiq which they might be granting, while the institutions themselves might be interested in a number of properties

properties

properties some of which might have been endowed by the original donors, some others by their successors and yet others by other devotees. Again, it might be that, in respect of a certain land, ~~the~~ crops realised in certain years were enjoyed by a temple once upon a time and the benefit of crops realised subsequently was somehow not accruing to it. In such cases, the Government would have to interfere very guardedly. It might not be justifiable for them to decide by themselves that the land ~~must~~ be granted afresh on lease for cultivation. It might be necessary for them to enquire, ~~the~~ first of all, whether there was actual endowment and if so, by a regular ~~deed~~ deed. If they assured themselves that it was so, then they could sue the trustee under Section 10; otherwise, if the case for the temple was merely that the land belonged to the temple or that the crop from it had been enjoyed by the temple once or twice, the Government might not be in order in suing the present occupant for damages for loss of 20 years crop.

With regard to the question of reducing the time limit for bring on record the legal representatives of a deceased party, he said that the amendment had been proposed to facilitate the "drive" recently inaugurated by the High Court in the matter of speeding up disposals. Ordinarily, cases had to be disposed of within a year from the date of institution. If a party took quite a half of that period merely for having a name and address brought on record, necessarily the other more important stages would have to be rushed through,

being meted out to either party. The later stages of a case, such as examination of witnesses, arguments, etc., being decidedly more important, it would be a pity to allow them to be rushed through. In other words, it would be in the interests of the parties themselves to hurry up the preliminary stages so that the later stages might receive a full measure of attention. In this view, he was in favour of para (vii) of the statement of general principles as placed before the House.

The Member concluded by suggesting, with reference to the proposal to fix 12 years as the period of limitation in respect of suits for recovery of money due on mortgages by deposit of title deeds, that the provision should be suitably drafted so as not to restrict its application only to transactions with the bigger bankers and banking institutions.

In winding up the debate on the measure, the  
SRI HANU (Rajamantrapravina S.P. Rajagopalachari)  
said that he was glad to see that the entire House  
was in favour of almost all the amendments suggested  
in the statement placed before it. It was only para  
(vii) that had come up for a certain amount of discus-  
sion. In 1935, a bill had been placed before the  
House and all those points had been discussed even  
then. The Government had stated at the end of the  
discussions that ~~therefore~~ they were not anxious to  
introduce the amendments and would do so at a more  
opportune time. They had accordingly brought up the  
amendments under discussion in the present connection.  
But in the interval that had elapsed, advantage had  
been taken of the improvements effected in British  
India and the same introduced in the Bill now under  
consideration, with a view to bring the law in Mysore  
into line with the British Indian Act. The British  
Indian Act was amended about 25 years earlier, but  
the Regulation in force in the State continued to be  
what it was before. The High Court of Mysore had re-  
commended that the amendments effected in British  
India be embodied in the law of this State. This was  
why the particular para under discussion was also  
incorporated. The main object of the amendment was  
that no stage of judicial work should occupy more  
than a reasonable period of time.

Some Members had represented during the dis-  
cussion that the amendment in this particular respect  
would mean hardship to the litigant public. But it  
would be well if it was borne in mind that the ques-  
tion how each of the proposed amendments would affect  
the rights and privileges of the general public had  
also been considered by the High Court before their

recommendations were formulated. The reduction of the period of limitation was one such recommendation. At the Laws Delay Committee also had recommended the same amendment. Originally, in British India also, the period allowed was 6 months. But subsequently, they had come to realize that 3 months would be quite sufficient for the purpose in question. Thus it would not mean any real hardship if the amendment was accepted here also. He would also add that even if the amendment was not made, the period of time taken by any one for finding out the addresses of legal heirs was actually not more than a month or so, and this, only at the end of the period already allowed. The parties would keep quiet for the first five months and then suddenly wake up to find out who was who. Such a state of things would help nobody. That would only result in delaying the disposal of cases.

It was stated by one of the speakers that in certain cases relationship up to <sup>7</sup> degrees ~~the 5th degree~~ would have to be examined, and therefore that more time was necessary. Another Member had suggested that in special cases, courts should be allowed the discretion to allow extension of time. In reply to both these points, the Speaker would invite the attention of the Members to the fact that under Order XXII, Rule 9, the courts already had such <sup>a</sup> discretion. So, the three months' period was not an invariable or inviolable condition in respect of all cases. If a plaintiff or defendant fell ill and could not take suitable action within three months, the courts would certainly have the discretionary power to extend the time.

Proceeding, Mr. S.P. RAJAGOPALACHARI said that the other points referred to by the other speakers had been

taken note of and would be discussed thoroughly in the Select Committee. With these remarks, he hoped that the Members would give their unanimous support to the measure.

Mr. C.N. NARASINGA RAO suggested that paras (i) to (vi) and para (vii) be put to vote separately.

Mr. A.N. RAMA RAO supported the suggestion.

The PRESIDENT observed that, after all, the difference of opinion related to a minor point and the opinions expressed in the House would be taken note of by members of the Legislative Council and the Select Committee. The material point for consideration was that the amendments suggested were not novel ones and they were already in force in British India for long. So, the House need not, in his opinion, hesitate to decide that the same amendments be adopted in the State also.

Thereupon the general principles of the measure were put to vote and adopted.

SUBJECT.....

Section

File No.

Serial No.

Diary No. of letter replied to.....

No.

3944

To

The Registrar, High Court

General and Revenue Secretariat

the

193

Date of issue.....

17-12-35

Signed by

C.S. JyN

List of enclosures.....

Copied by

Bu

15/12

Examined by.....

I am directed  
more after to the suggestion  
of the Chief Judge Enquiries  
at page 340 of Vol. X6 of the  
High Court Reports  
regarding the desirability  
of amending ~~section~~ 5.29  
of the Mysore  
Limitation Act and to  
request that the draft  
be informed when an  
amendment giving effect  
to that suggestion it may  
be advisable  
not to be necessary to incorporate

Other changes ~~made~~  
 in the Bill include the  
 the marginally noted Act,  
 so that <sup>the</sup> amending  
 Bill that may have  
 to be introduced, may be

a comprehensive one and the entire legislative  
 regulation brought into line with the Indian Law on the subject  
 I have

Ce  
 W. General Secy

|            |         |
|------------|---------|
| <u>XII</u> | of 1927 |
| <u>XXX</u> | of 1925 |
| <u>I</u>   | of 1927 |
| <u>I</u>   | of 1929 |
| <u>XXI</u> | of 1929 |

General and Revenue Secretariat

No. P 3814

Dated, Bangalore, 15th December 1935

170

From

The General Secretary to the Government of His Highness  
the Maharaja of Mysore.

To

The Registrar,  
High Court of Mysore,  
Bangalore.

Sir,

I am directed to invite reference to the suggestion of the Chief Judge contained at page 340 of Volume XI of the Mysore High Court Reports regarding the desirability of amending S.29 of the Mysore Limitation Regulation and to request that the Government may be informed whether in giving effect to that suggestion it may not be advisable to incorporate the other changes made in British India by the margi-

|     |    |      |   |                                                   |
|-----|----|------|---|---------------------------------------------------|
| XII | of | 1923 | { | nally noted Acts, so that the amending Bill that  |
| XXX | of | 1925 |   | may have to be introduced, may be a comprehensive |
| ✓ I | of | 1927 |   | one and the entire Limitation Regulation brought  |
| I   | of | 1929 |   | into line with the British Indian Law on the sub- |
| XXI | of | 1929 |   | ject.                                             |

I have the honour to be,

Sir,

Your most obedient servant,

*u*  
*for* General Secretary to Government.

116-836  
 R.O. No. 2  
 D. Dis. 36-37

HIGH COURT OF MYSORE,  
 Public Office Buildings, Cubbon Park,  
 Bangalore, 3rd July 1936.

FROM

A. Sundararaja Rao, Esq., B.A., B.L.,

Registrar, High Court of Mysore.

TO CHIEF SECRETARY

4 JUL 1936

Ramanathan, Esq., B.A.,  
 Chief Secretary to the Government of Mysore;  
 Bangalore.

647/80

SIR,

With reference to your letter No.P.3914, dated 15th/17th December 1935, in the matter of amending the Mysore Limitation Regulation so as to bring the entire Regulation into line with the British Indian Law on the subject, I am directed to enclose herein a Minute of the Chief Justice on the subject with which the other Judges agree and to state that the suggestion for amendment to Section 29 found in 40 Mysore High Court Reports page 330. has the concurrence of all the Judges.

I have the honour to be,

Sir,

Your most obedient servant,

*A. Sundararaja Rao*  
 Registrar.  
 MRM

VJC

Minute made by the Chief Justice and  
agreed to by the other three  
Judges.

-----

The amendment made by Act XII of 1923 is unnecessary here as we have no provision corresponding to Section 443 of the British Indian Code of Criminal Procedure.

Amendments similar to those made by Act XXX of 1925 have already been made here by Regulation I of 1933. Amendments to Sections 20 and 21 corresponding with those made by Act I of 1927 have been made by Regulation V of 1928. But that Act also added clause (b) to the explanation to Art.132 in the British Indian Limitation Act. That addition does not appear to me necessary here. The same Act also added the words "including any such application by a judgment-debtor" to Art.166. The Select Committee of the Mysore Legislative Council, which considered the bill which became Regulation V of 1928, thought the addition of those words to Art.166 unnecessary. I do not think the words are necessary. But it will be noticed that our Art.166 is worded differently from Art.166 of the British Indian Limitation Act. The ground of fraud in publishing or conducting a sale in execution is not mentioned. Unless there is some reason for not doing so which I have overlooked, I think this opportunity might be taken to add the words "or fraud" after the word "irregularity" in that Article.

I think the changes made by Act I of 1929 -- i.e. the amendment of Section 10, the additions of Articles 48A and 48B, the omission of Article 133, the amendment of Article 134 and the addition of Articles 134A, 134B and 134C -- might well be copied here.

Act XXI of 1929 added clause (c) to the - explanation to Article 132. That I think might well be added to Article 132 of our Regulation.

*Abanindranath Ghosh*  
Registrar.

*MRU*

## General and Revenue Secretariat

To

- 1) Mr. Venkata Rao Dyngur in Dyngur M. A.
- 2) Mr. H. K. Lakshminarasimhan Dyngur B. A., D. D. B.
- 3) Rajasabha Chudamani  
Dewan Chudamani  
K. A. Srinivasan Dyngur B. A., D. D. B.
- 4) Mr. Srinivasan Dyngur B. A., D. D. B.

- ✓ 5) B. S. Puthu's mummy by B.A.  
L.A.R.
- ✓ 6) Rajat's mummy by  
Rao Sahib C. Hayawadmalam  
B.A., B.L.
- ✓ 7) P. Subramaniam by

✓ Certify to P.A. to 1st member  
✓ " G.B.  
✓ " L.C. Office

89

Mirle N. Lakshminaranappa, Esq.,  
~~XXXXXXXXXXXXXXXXXXXX~~ B.A., LL.B.  
Government Advocate.

GOVERNMENT ADVOCATE'S CHAMBERS,  
PUBLIC OFFICES,

D. O. No. 782 7701  
2/5-

Bangalore, 30/4/1938. 793

Dear Mr. Sundararaja Rao,

I am in receipt of your letter No. P. 6017-23 dated the 29th April 1938, re: Meetings of the Select Committee appointed to consider the Bill to amend the Transfer of Property Act, the Transfer of Property Supplementary Bill and the Bill to amend the Limitation Act. fixed to the 4th, 5th and 6th May 1938.

You are aware that the adjourned meetings of the Select Committee with reference to the Companies Bill are fixed for the 5th and 6th May at 1 p.m., on each day. Very likely, it may extend to the 7th also.

On the 4th May, I shall have to perform my mother's ceremony at Mysore where my elder brother resides. Therefore, I shall be unable to attend the meetings on all the three days.

I shall be grateful if you can obtain kind orders of the Chairman for a postponement of the meeting till the 9th May if it ~~suits~~ suits him and other members of the Committee.

Yours sincerely,

*Mirle N. Lakshminaranappa*

A. Sundararaja Rao, Esq., B.A., B.L.,  
Under Secretary to Government,  
Bangalore.

*Submitted for perusal*

*1/2 member*

*1/2*  
*2.5-*

10  
Government of His Highness the Maharaja of Mysore,

General and Revenue Secretariat,  
Bangalore, 2nd May 1938.

C P 6/26-32

Dear sir,

In continuation of O.M. No.P.6017-23 dated the 29th April 1938 regarding the meetings of the Select Committee appointed to consider certain Bills, I am desired to state that there will be no meeting on the 4th instant as intimated in the O.M. referred to above and that the meetings will be held from the 5th instant.

Yours sincerely,



DRAFT.

SUBJECT.....  
.....  
.....

Section. *Legis*  
File No. *4-38*  
Serial No. *81*

Diary No. of letter replied to.....

Proceedings of the Government of  
H. H. the Maharaja of Mysore.

Order No. *P. 300/June 1.*

GENERAL AND REVENUE SECRETARIAT,  
( )  
, the.....191 .

Ordered that the accompanying *Act*  
*furthor to amend the in*  
*diminution Act, 1911.*

Date of issue.....*14.7.38*

which received the assent of His High-  
ness the Maharaja, on the.....*seventh*  
day of.....*July*.....19*38*,

Signed by.....*Mr. N. S. R.*

be published as Regulation No. *Act*.....*21*  
of 19*38*, in the *Mysore Gazette* for gene-  
ral information.

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English  
part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada  
part?

*for 82. 13.7*  
*Secretary to Government.*

To

The Compiler, *Mysore Gazette*, for  
publication in Part *II* of the Gazette, in  
English and Kannada and for supply of  
.....spare copies in English, and  
.....spare copies in Kannada *as per the*  
this office, and.....spare copies *Order*  
in English and.....spare copies  
in Kannada to the Curator, Government  
Central Book Depot, Bangalore. Proofs  
should be sent to this office for approval  
before publication.

*Copy to Translation Section*

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS  
THE MAHARAJA OF MYSORE.

Order No. P300 Lys' 4-38-18/Enc 1

14  
Dated Bangalore, 13th July 1938.

Ordered that the accompanying Act further to amend the Mysore Limitation Act, 1911, which received the assent of His Highness the Maharaja, on the seventh day of July 1938, be published as Act XI of 1938, in the Mysore Gazette, for general information.

for General Secretary to Govt.  
137

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada as per standing orders. Proofs should be sent to this office for approval before publication.

NOTIFICATION.

Order No. P. 300—Legis. 4-38-1, dated Bangalore,  
14th July 1938.

Ordered that the accompanying Act further to amend the Mysore Limitation Act, 1911, which received the assent of His Highness the Maharaja, on the seventh day of July 1938, be published as Act XI of 1938, in the *Mysore Gazette*, for general information.

By Order,

C. SUBRAHMANYA AIYAR,  
Offg. Secretary to Government,  
General Department.

ACT XI OF 1938.

(Received the assent of His Highness the Maharaja on the  
Seventh day of July 1938.)

**An Act further to amend the Mysore Limitation Act, 1911.**

Where as it is expedient further to amend the Mysore Limitation Act, 1911; it is hereby enacted as follows:—

1. (1) This Act may be called the Mysore Limitation (Amendment) Act, 1938. Short title and commencement.

(2) It shall come into force on the first day of October 1938.

2. In section 5 of the Mysore Limitation Act, 1911 (hereinafter referred to as the said Act), for the words "by any enactment or rule" the words "by or under any enactment" shall be substituted. Amendment of section 5.

3. In section 10 of the said Act, the following paragraph shall be inserted, namely:— Amendment of section 10.

"For the purposes of this section any property comprised in a Hindu, Mahomedan or Buddhist religious or charitable endowment shall be deemed to be property

vested in trust for a specific purpose and the manager of any such property shall be deemed to be the trustee thereof."

Amendment  
of section 29.

4. For section 29 of the said Act, the following shall be substituted, namely:—

"29 (1) Nothing in this Act shall affect section 25 of the Indian Contract Act, 1872, as in force in Mysore;

(2) where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the First Schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, and

(a) the provisions contained in section 4, sections 9 to 18, and section 22 shall apply only in so far as and to the extent to which, they are not expressly excluded by such special or local law; and

(b) the remaining provisions of this Act shall not apply."

Amendment  
of articles  
48-A and  
48-B

5. In the First Division of the First Schedule to the said Act, after article 48, the following articles shall be inserted, namely:—

|                                                                                                                                                                                   |             |                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------------|
| 48-A. To recover movable property conveyed or bequeathed in trust, deposited or pawned and afterwards bought from the trustee, depository or pawnee for a valuable consideration. | Three years | When the sale becomes known to the plaintiff. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------------|

|                                                                                                                                                                                    |             |                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------------|
| 48-B. To set aside sale of movable property comprised in a Hindu, Mahomedan or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration. | Three years | When the sale becomes known to the plaintiff. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------------|

Amendment  
of article 132.

6. To article 132 in the First Division of the First Schedule to the said Act, the following explanation shall be added, namely. —

15

*Explanation.*—Advances secured by mortgage by deposit of title deeds shall, for the purposes of this article be deemed to be money charged upon immovable property."

7. In the First Division of the First Schedule to the said Act :— Amendment  
of first  
Schedule.

(a) Article 133 shall be omitted.

(b) In article 134, in the third column, for the words "the date of the transfer" the words "when the transfer becomes known to the plaintiff" shall be substituted; and

(c) After article 134, the following articles shall be inserted, namely :—

|                                                                                                                                                                                                                                                  |              |                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------|
| 134-A. To set aside a transfer of immovable property comprised in a Hindu, Mahomedan or Buddhist religious or charitable endowment made by a manager thereof for a valuable consideration.                                                       | Twelve years | When the transfer becomes known to the plaintiff.    |
| 134-B. By the manager of a Hindu, Mahomedan or Buddhist religious or charitable endowment, to recover possession of immovable property comprised in the endowment which has been transferred by a previous manager for a valuable consideration. | Twelve years | The death, resignation or removal of the transfer or |
| 134-C. By the manager of a Hindu, Mahomedan or Buddhist religious or charitable endowment to recover possession of movable property comprised in the endowment which has been sold by a previous manager for a valuable consideration.           | Twelve years | The death, resignation or removal of the seller.     |

8. In the Third Division of the First Schedule to the said Act, in article 158 in the third column, for the words "when the award is submitted to the Court," the words "when the award is filed in Court and notice of the filing has been given to the parties" shall be substituted. Amendment  
of article 158.

9. In the Third Division of the First Schedule to the said Act in article 166 in the first column, the words "or fraud" shall be inserted after the word "irregularity." Amendment  
of article 166.

Amendment  
of articles 176,  
177 and 178.

10. In the Third Division of the First Schedule of the said Act, (a) in articles 176 and 177 in the second column for the word "ditto" appearing against each article the words "Ninety days" shall be substituted; and (b) in article 178 in the second column for the word "ditto" the words "six months" shall be substituted.

MIRZA M. ISMAIL,  
*Dewan.*

**Price: 0-0-6.**

pages.

I } Notes ~ 1529  
    } Enclomures ~ 30 to 74

4, Correspondence. 1516